1886

SUPREME COURT OF THE UNITED STATES.

No. 48.

PIERRE CHOUTEAU, SENIOR, APPELLANT,

VERSUS

BAPTISTE, A BOY OF COLOR, APPELLEE.

ERROR TO THE SUPREME COURT FOR THE THIRD JUDICIAL DISTRICT OF THE STATE OF MISSOURI.

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1952

State of Missouri, Third Judicial District, sct.

Be it remembered, that heretofore, to wit, on the twenty-ninth day of April, in the year of our Lord eighteen hundred and thirty-seven, was filed in the office of the clerk of the supreme court of the State of Missouri, within and for the third judicial district, a transcript of the record and proceedings of the circuit court of Jefferson county, which is in the words and figures following, to wit:

TRANSCRIPT.

State of Missouri, County of Jefferson, ss.

Be it remembered, that at the November term, in the year eighteen hundred and thirty-five, of the circuit court for the county of Jefferson aforesaid, were filed in the office of said court the following transcripts and original papers, to wit:

TRANSCRIPT FROM ST. LOUIS.

State of Missouri, County of St. Louis, ss.

Be it remembered, that heretofore, to wit, at the March term of the circuit court for the county of St. Louis, in the year eighteen hundred and twenty-five, on the nineteenth day of May, in the year aforesaid, Isaac McGirk presents here, to the court, the petition of Mary, Carmelite, Joseph, Julie, Helen, Marguerete, Catiche, Antoine, Baptiste, Michael, and Francois, praying that they may be permitted to institute suit against Pierre Chouteau, sen. for establishing their right to their freedom, and that they may be permitted to sue, as poor persons; therefore the court permit the Mary, Carmelite, Helen Marguerite, Antoine, Baptiste, Michael, and Francois, to sue as aforesaid, and direct that an action of assault and battery, and false imprisonment, be commenced in the name of the said Mary, Carmelite, Helen, Marguerite, Antoine, Baptiste, Michael and Francois, by their next friend, against the said Pierre Chouteau, sen. and assign Isaac C. McGirk, Hamilton R. Gamble, and Robert P. Farris, as their counsel; and it is ordered by the court that the said defendant permit the said plaintiffs to have a reasonable liberty of attending their counsel and the court, when occasion may require it, and that the said plaintiffs shall not be taken or removed out of the jurisdiction of this court; and that the said plaintiffs shall not be subject to any severity of treatment on account of their said application for freedom. And afterwards, to wit, on the second day of June, in the year aforesaid, Baptiste, one of the petitioners aforesaid, by his attorney, filed in the office of the clerk of the said circuit court, his declaration against the said Pierre Chouteau, which said declaration is in the words and figures following, to wit;

DECLARATION.

State of Missouri, County of St. Louis, ss.

In the circuit court, July term, 1825. Baptiste, a free boy of color, held in slavery, who is permitted by the court to sue, by Pierre Barribeau, his next friend, as a poor person, by his attorneys Gamble and McGirk, and Farris, assigned as counsel by the court, complains of Pierre Chouteau, senr. of a plea of trespass, for that the said Pierre heretofore, to wit, on the first day of January, in the year of our Lord eighteen hundred and twenty-five, with force and arms, at the county of St. Louis aforesaid, an assault did make upon the body of the said Baptiste, and then and there beat, bruised, and ill treated him, the said Baptiste, and kept and detained him in prison there, against his will, without any reasonable or probable cause whatsoever, and has ever since kept and detained him, the said Baptiste, in prison there, and still keeps and detains him in prison there, against his will, without any reasonable or probable cause whatsoever, contrary to the laws of this State; and the said Pierre other wrongs then and there did to the said Bapliste, against the peace of the State; wherefore the said Baptiste says he is greatly injured by the said Pierre, and has sustained damage to the amount of five hundred dollars, and therefore he sues, &c.

FARRIS,
GAMBLE, and
McGIRK,
Att'ys for Plaintiff.

And afterwards, to wit, on the said second day of June, in the year aforesaid, the clerk of the said circuit court endorsed theron a writ of summons, in the words and figures following, to wit:

SUMMONS.

County of St. Louis, ss. *the State of Missouri.*

To the Sheriff of said county, *greeting:*

We command you to summon Pierre Chouteau, sen. that he be and appear before the judge of our circuit court, at [SEAL.] the next term thereof, to be held at the city of St. Louis, within and for the county of St. Louis, on the fourth Monday of July next, then and there to answer unto Baptiste, a free boy of color, who is permitted by the court to sue, by Pierre Barribeau, his next friend, as a poor person, of a plea of trespass to the damage of said plaintiff of five hundred dollars, and have you then there this writ.

Witness, Archibald Gamble, clerk of our said court, at office, this second day of June, 1825.

ARCHIBALD GAMBLE, *Clerk.*

And afterwards, to wit, at the return term thereof, the sheriff of the county of St. Louis returned the same into court, with his return thereon endorsed, in the words and figures following, to wit:

RETURN.

Executed this writ on Pierre Chouteau, sen. June 14, 1825, in the city of St. Louis, by giving the writ and declaration to him to read, and his acknowledging the service thereof.

JOHN K. WALKER, *Sheriff.*
By John Simonds, Jr. Dep. Sheriff.

And afterwards, to wit, at the said July term of the said circuit court, in the year aforesaid, the said defendant, by his attorney, filed his plea, in the words and figures following, to wit:

PLEA.

C. Ct. St. Louis, July term, 1825. Pierre Chouteau, senr. ads. Baptiste, a boy of color, by his next friend, Pierre Barribeau. And Pierre Chouteau, by his attorney, comes and defends the force, and injury, when, &c. and says, as to the assaulting, beating, bruising, ill treating, and imprisoning the said Baptiste, as in said declaration mentioned, that the said Baptiste ought not to have, or maintain his aforesaid action thereof against him, because, he says, that before and at the time when, &c. in said declaration mentioned, to wit, at St. Louis aforesaid, the said Baptiste was a slave in in the lawful possession and service of said Pierre Chouteau. Wherefore, the said Pierre then and there detained and held, and still doth detain and hold said Baptiste in his service and possession, which detention and possession are the assaulting, beating, ill treating, bruising, and imprisoning the said Baptiste, in said declaration mentioned, and this the said Pierre Chouteau is ready to verify; wherefore he prays judgment if the said Baptiste ought to have or maintain his aforesaid action against him.

LAWLESS,
COZZENS,
Attorneys.

And afterwards, to wit, at the same term of the said circuit court, in the year aforesaid, the said plaintiff, by his attorney, filed his demurrer to said plea, in the words and figures following, to wit:

DEMURRER.

Baptiste, vs. *Pierre Chouteau, senior.*

And the said plaintiff says that the said plea of the said defendant, and the matter and things therein contained, in manner and form as

the same are therein stated and set forth, are not good and sufficient, in law, to bar or preclude him, the said plaintiff, from having and maintaining his aforesaid action thereof against him, the said defendant, and that he, the said plaintiff, is not bound, by the law of the land, to answer the same, and this the said plaintiff is ready to verify; wherefore, for want of a sufficient plea, in this behalf, the said plaintiff prays judgment, &c.

McGIRK, and
FARRIS,
For Plaintiff.

JOINDER.

Demurrer.

LAWLESS,
COZZENS,
Attorneys.

SUBMISSION.

And afterwards, to wit, at the said July term of the said circuit court, in the year aforesaid, come the parties aforesaid, by their attorneys, whereupon, all and singular, the premises are by them submitted to the court.

JUDGMENT.

Which being seen and heard, and by the court here fully understood, and mature deliberation being thereupon had, for that it appears to the court that the said plea of the said defendant, and the matters and things therein contained, in manner and form as therein stated and set forth, are not sufficient, in law, to bar or preclude him, the said plaintiff, from having and maintaining his aforesaid action thereof against the said defendant, and that the said plaintiff is not bound, by the law of the land, to answer the same.

And afterwards, to wit, at the said July term, on the thirty-first day of August, in the year eighteen hundred and twenty-five, the said Pierre Chouteau, by his attorney, filed his plea, in the words and figures following, to wit:

PLEA NOT GUILTY.

Pierre Chouteau, sen. adsm. *Baptiste.*

And the said defendants come and defend the wrong and injury, when, &c. and say that they are not guilty of the said several supposed trespasses, or any of them, in the manner and form as the said

Baptiste hath above thereof complained against them, and of this they put themselves upon the country, &c,

COZENS,
For Defendants.

SIMILITER.

And the said Baptiste doth the like, &c.

GAMBLE,
McGIRK, and
FARRIS,
Atty's for Plaintiff.

And afterwards, in vacation, to wit, on the thirty-first day of October, in the year eighteen hundred and twenty-five, the said Baptiste, by his attorney, filed his replication, in the words and figures following, to wit:

REPLICATION.

Baptiste, a free boy of color, vs. *Pierre Chouteau, sen.*

In the circuit court of St. Louis county, in vacation, before the November term, 1825. And the said Baptiste, by his attorneys, as to the said plea of the said Pierre, by him first above pleaded as to the said several trespasses, in the introductory part of that plea mentioned, and therein attempted to be justified, saith that he, the said Baptiste, by reason of any thing by the said Pierre in that plea alleged, ought to be barred from having and maintaining his aforesaid action thereof against him, the said Pierre, because, he saith, that he, the said Baptiste, was not, at the time of the committing of the said several trespasses, in his declaration thereof set forth by him, the said Pierre, nor is he now, a slave as the said Pierre, in his said plea, hath alleged; but that he, the said Baptiste, was, at the time of the committing of the said several trespasses, by the said Pierre, in his said declaration above set forth, and is now, a free person by, and according to, the usages, customs, and laws of the land, and ought not to be held and detained as a slave in the possession and service of the said Pierre, nor of any other person by, or under whom the said Pierre may claim; and this he, the said Baptiste, prays may be inquired of by the country, &c.

GAMBLE,
McGIRK, and
FARRIS,
Att'ys for Plaintiff.

And the said cause was continued, from term to term, until the November term of the said circuit court, in the year one thousand

eight hundred and twenty-eight, the plaintiff, by his attorney, presents to the court his petition, verified by affidavit, praying for a change of venue in this case.

CHANGE OF VENUE TO ST. CHARLES.

It is therefore ordered by the court that the venue be changed to the county of St. Charles, in the second circuit court of this State, and that the clerk of this court do certify and transmit a full transcript of the record and proceedings, in this case, together with all papers filed in the cause, and appertaining to, or forming a part of, the record, to the clerk of the circuit court for the county of St. Charles, at the next term thereof; and the petition and affidavit are in the words and figures following, to wit:

PETITION.

Baptiste, a boy of color vs. *Pierre Chouteau, sen.* ss.

Suit for freedom in the circuit court for the county of St. Louis county, 1828. The petition of Baptiste, the above named plaintiff, represents to this honorable court that he fears he will not receive a fair trial in this court, in which his suit, above mentioned, is pending, on account that, he verily believes, the judge thereof is prejudiced against him and his claim to freedom, so that he cannot, and does not, expect a fair and impartial trial of said cause in said court; whereupon your petitioner prays that a change of venue may be awarded by this court in said cause, and that said cause may be sent to some other court and county to be tried, where the causes complained of do not exist; and your petitioner will ever pray, &c.

his
BAPTISTE. ⋈
mark

Attest: J. C. McGirk.

State of Missouri, county of St. Louis.

Personally appeared before me, the undersigned, a justice of the peace within and for the county of St. Louis, Baptiste, a boy of color, who, being by me duly sworn upon his corporal oath, saith that the facts set forth in the foregoing petition, by him subscribed, are true, as he verily believes, and that he cannot, and does not, expect a fair and impartial trial of his said suit, in said petition mentioned, on account that the judge of said court is prejudiced against him and his claim to freedom.

his
BAPTISTE. ⋈
mark

Taken, sworn to, and subscribed before me, at the county and city of St. Louis, this twenty-fourth day of November, 1828.

CLEMENT B. PENROSE,
Justice of the Peace.

State of Missouri, County of St. Louis, wit:

I, Archibald Gamble, clerk of the circuit court for the county of St. Louis, do certify that the foregoing is a full transcript of the record and proceedings in the case of Baptiste, versus Pierre Chouteau sen. as the same now remains in my office.

[L. S.] Given under my hand and the seal of the said circuit court, at office, the twelvth day of March, in the year of our Lord eighteen hundred and twenty-nine.

ARCHIBALD GAMBLE, *Clerk.*

TRANSCRIPT FROM ST. CHARLES.

State of Missouri, County of St. Charles, ss.

Be it remembered, that on the seventeenth day of March, in the year of our Lord eighteen hundred and twenty-nine, was filed in the office of the clerk of the circuit court for the said county of St. Charles, a transcript of the record and proceedings in the case of Baptiste against Pierre Chouteau, sen. certified from the circuit court of the county of St. Louis, on an order of change of venue to the said county of St. Charles, in which cause at the October term of our said court for the year aforesaid, on the first day thereof, and the fifth of October aforesaid, the following proceedings were had, to wit:

Baptiste vs. *Pierre Chouteau, sen.*

Petition for freedom. On motion, and affidavit filed, it is ordered that this cause be continued at the cost of the defendant.

And afterwards the said cause was continued, from term to term, in our said court, until the June term thereof, for the year eighteen hundred and thirty-five, when the following order was made, to wit:

TUESDAY, *June 9th,* 1835.

Baptiste vs. *Pierre Chouteau, sen.*

Petition for freedom. The judge of this court having been of counsel for one of the parties in this action, it is ordered by the court that the venue be changed to the county of Jefferson, in the seventh judicial circuit of this State, and that the clerk of this court do certify and transmit a full transcript of the record and proceedings in the cause, together with all papers appertaining to, and filed in the same, to the clerk of the circuit court for the said county of Jefferson, at the next term thereof.

State of Missouri, County of St. Charles, ss.

I, William Christy, jun. clerk of the circuit court within and for the county aforesaid, certify the above to be a full and correct transcript of the record and proceedings in the above case of Baptiste against Pierre Chouteau, sen. as the same now remain of record in my office, accompanied by all the papers appertaining to said cause.

[L. S.] Given under my hand and the seal of said court, at office, in the town of St. Charles, this 27th day of October, A. D. 1835.

PROCEEDINGS IN JEFFERSON CIRCUIT COURT.

And afterwards, to wit, at the November term of said citcuit court for the county of Jefferson, the following order was made in said cause, in the year 1835.

Baptiste vs. *Pierre Chouteau, sen.*—Continued.

And at the March term of the said court, in the year eighteen hundred and thirty-six, the following order was made:

Baptiste vs. *Pierre Chouteau.*

Action for freedom. And now at this day the parties appear, by their respective attorneys, and on motion, and affidavit filed by the defendant, it is ordered that this cause be continued until the next term of this court at his costs.

And at the July term of said court, in the year eighteen hundred and thirty-six, the following order was made in the cases of Marguerite against Pierre Chouteau; Helen against same; Catiche against same; Baptiste against same; Antoine against same; and Julie against same.

AGREEMENT OF PARTIES.

And now, at this day, come the parties in the above causes, by their attorneys, and it is agreed, by the said parties, that it stands admitted that all the said plaintiffs are descended, in the maternal line, from Mari Scipion (who is mentioned in the depositions;) that the above causes may be decided by one, if the plaintiff elect, before the jury are sworn; and that all the depositions taken, and on file, in either of said causes, may be read on the trial of all; and all the above causes are continued upon the application and at the costs of the defendant.

And at the November term of said court, in the year eighteen hundred and thirty-six, the following order was made.

Now at this day come the parties aforesaid, by their respective attorneys aforesaid, and thereupon, also, came a jury, to wit:

Lawson Cooley, William McMillan, Thomas Moss, William Bartlett, John Warner, Francis Meaned, Johnson H. Alford, John Mc

Faddin, John Smith, Davis Williams, Isaac Carrow, and Lewis Todd, twelve good and lawful men, who being elected, tried, and sworn well and truly the issued joined between the parties aforesaid, upon their oath aforesaid,

VERDICT.

Do find, as to the first issue, within joined, between the parties aforssaid, that the said defendant is guity of the said wrongs and injuries in the declaration mentioned, in manner and form as the said plaintiff hath above thereof complained against him; and as to the second issue, within joined, between the parties aforesaid, the jurors aforesaid, upon their oaths aforesaid, do find that the said plaintiff was not, at the time of the committing of the said several grievances, a slave, in manner and for as the said defendant hath, in his said second plea, alleged, but was a free person; and they assess the damages of the said plaintiff, by him sustained by reason of the said wrongs and injuries, to one cent; therefore it is considered that the said Baptiste recover of the said Pierre Chouteau his damages aforesaid, in form aforesaid by the jury assessed, together with his costs and charges by him about *her* suit, in this behalf expended, and that he have thereof execution. And it is further considered that the said Eaptiste be liberated and be entirely set free from the said Pierre Chouteau, and from all persons claiming from, through, and under him; and, thereupon, the said defendant files his bill of exceptions, in the words and figures following, to wit:

BILL OF EXCEPTIONS.

Be it remembered, that at the trial of this cause it was admitted that the plaintiff is the son of a womon named Marguerite, who is the daughter of a woman named Marie Scipion, mentioned in the depositions hereinafter set forth. The followlng depositions were then read, in evidence, by the plaintiff:

DEPOSITIONS.—JOHN B. RIVIERRE.

John B. Rivierre, alias Bacanne, deposeth and saith, that he knew Joseph Tayon, senior, formerly a resident of St. Louis, and Louise Tayon, his wife, in their lifetime; that they have both been dead many years, and that the said Tayon and wife were the father and mother of Madame Chauvin, Madame Helen Chevalier, and John and Francis Tayon, and Charles Tayon; that he first became acquainted with the said Tayon and wife at Fort du Chartres, in Illinois, from his earliest recollection, and that he was acquainted with them afterwards, and until their deaths: that this deponent was intimate in the family of said Tayon, and was very often at the house and in the family of said Tayon, as well at Fort Chartres as at St. Louis, and that his

intimacy and intercourse with said Tayon, and family, rendered the house of said Tayon almost as familiar to this deponent as his own house; that this deponent was perfectly well acquainted with all the members of said Tayon's family, his domestic servants, slaves, and dependants, as well as the other members of the family; that this deponent knew a mulatto woman, who lived in the family of said Tayon, whose name was Mare Scipion, that her complexion was that of a dark red Indian cast, partaking of the complexion of negro and Indian; that he thinks the said Marie Scipion was about eighteen or twenty years of age, when her first saw her at Fort Chartres; and that this deponent knew Marie Scipion ever after till her death; that the hair of the head of the said Marie Scipion was about one foot in length, and curled a good deal, but was not so much curled as the hair of an African negro; and that he has seen the hair of mulattoes more curled than the hair of said Marie Scipion; that said Marie Scipion generally wore a hankerchief on her head, after the fashion of the French, but that he has also seen her without any covering on her head, except her hair; that Marie Scipion had several children, one named Sourie, which he believes was a nick name, who was a girl, and now lives with Pierre Chouteau, sen. in the town of St. Louis, and Marie Scipion had several other children whose names he does not know; and this deponent further saith that he was well acquainted with an Indian woman who always exercised her personal freedom, without the restraint of any person, as far as this deponent knows and believes, who was a perfect Indian in appearance, and was universally allowed to be of the Natchez tribe, who had adopted the French mode of life, and their manners and habits, and lived at Prairie du Rocher with a half breed man called Basques, and that her name was generally called Marie Tata; and that this deponent further saith, that he has often heard his deceased father, Antoine Rivierre, say the said Marie Tata was the sister of the mother of Marie Scipion, whose name he does not recollect to have heard, and that what his father said was confirmed by common opinion and report of other people, generally, who knew the said Marie Tata, and the said Scipion; and further, this deponent saith, that he has often heard his said deceased father often say that he was well acquainted with the mother of the said Marie Scipion, who was an Indian woman of the Natchez tribe of Indians, and that the mother of Marie Scipion was the sister of Marie Tata; that this deponent recollects of having heard it said, when this deponent was a boy, by other people, in their jokes, that this deponent's father was very intimate with Marie Tata, and had sometimes played the part of her beau; and this deponent further saith, that he has often heard his deceased father say, and other persons, in general, as well as Joseph Tayon, sen. and his family say, that the father of Marie Scipion was a negro man, and that his name was Scipion, also, and that the said Scipion was drowned or smothered in the bottom of a well at Prarie du Rocher, which caved in upon him whilst he was cleaning it out, where his body

remained; and that this deponent has often heard Joseph Tayon, sen. say the same thing, as well as many other persons; and this deponent further saith, that he rocollects to have formerly seen a half Indian woman at the house, and in the family of the said Joseph Tayon, senior, whose name was called Marie Louise; and this deponent recollects to have heard the said Tayon say, that the said Marie Louise was a half Indian woman; that the said Tayon gave this deponent to understand that the said Marie Scipion and Marie Louise were given to the wife of said Tayon by a cousin to his wife, whose name was Garguion, or Gryon, who was a priest at Fort du Chartres and Prarie du Rocher, and that this deponent understood the said Tayon and his wife both to say that the said Marie Scipion and Marie Louise were given to the said Tayon and wife by the said Garguion, or Guion, upon the condition that the said Marie Scipion and Marie Louise, and all their children, should be set at liberty from servitude whenever the said Tayon and wife should both be dead; and further, that this deponent has heard the said Tayon and wife both say, several times, that the said Marie Scipion and Marie Louise, and their children, were all to be free at their death, and should serve nobody afterwards, because such was the condition on which they were given to them by the said Garguion, or Guion; and this defendant further saith, that many years ago, fifty years or more, that a proclamation was promulgated and published in St. Louis, by authority of the Spanish Governor, then in office at Orleans, and during the time Pierre Ignate was lieutenant governor or commandant at the post of St. Louis, by hand-bills, at the church door in St. Louis, which this deponent heard read, being unable to read it himself, whereby it was declared that all the Indians, and the descendents of Indians, who were, or had been, held in slavery by the French and Spaniards, whether taken in war, or purchased from the Indians, and all those who should thereafter be taken by the inhabitants of Louisiana in war, or in any way should be purchased by the inhabiants from the Indians, were, and should be free, and discharged from servitude as slaves, and be allowed to remain in the settlements if they chose, or to depart to their own country. At what precise time this proclamation was made this deponent connot now remember, but this deponent is positively certain that such proclamation was made, and also that he then heard the lieutenant governor say the same things which he has above stated concerning the contents of said proclamation; and also this deponent well remembers that immediately after the said proclamation was published, that many Indian slaves were set at liberty, in pursuance thereof, and went to other places, wheresoever they pleased; and this deponent further saith, that after the said proclamation was made as aforesaid, that two men, the descendants of Indians, who was, as this deponent believes, the sons of the said Marie Louise, who had lived with the said Tayon, went to the lower country in a boat, leaving the service of the said Tayon and remained in the lower country, where one of them got married

and the other died some time afterwards, as this deponent was informed, and believes; and this deponent further saith, that he understood the said Joseph Tayon to say, soon after the publication of said proclamation, that the said Marie Scipion and Maria Louise lived in his family of their own free consent, because they were well treated, and chose to remain with him, but that he, the said Tayon, had no right to restrain them of their liberty, and that they, the said Scipion and Marie Louise, and their children, where at liberty to leave him whenever they pleased, but that if they chose to remain with him until his death, they should never serve any body. This deponent saith, that he is seventy-nine years old, that he does not think that his recollection is in the least impaired, at least as far as regards occurrences which took place in the early part and during the prime and decline of his life; that his health is, and has always been, very good, and that he is yet stout for his years, but that he does not feel as though he could safely attend a court of justice as a witness, on account of the tenderness of his old age; and further this deponent saith not.

his
JOHN B. ⋈ RIVIERRE.
mark

MARGT. V. RIVIERRE.

Margaret Vale Rivierre, deposeth and saith, that she knew Joseph Tayon, senior, before she was married, which is 39 or 40 years ago, at St. Louis, and also, that she knew Madame Tayon, the wife of said Joseph, and that she has understood that both Tayon and his said wife have been dead for many years; that she was frequently at the house of said Tayon, in his life time, and knew the domestic servants of the said Tayon when she saw them, and recollects to have seen one frequently at the house of said Tayon, a woman whose name was scipion; that her complexion was that of a dark red mulatto; that she supppoes that Scipion was then about thirty or thirty-five years of age, as she had several children, the eldest of which was about seventeen or eighteen years of age, as this deponent supposes; that this deponent does not know any thing concerning the description of the hair of said Scipion, whether it was long or short, straight or curley, as she never saw the said Scipion bareheaded, that she recollects—her head being always covered after the fashion of the French, with a turban or handkerchief; that this deponent has frequently heard her father-in-law, Antoine Rivierre, who was a very aged man, who is now dead, and has been dead about nine years, say that the said Scipion was of Indian descent; that the father of the said Scipion was a negro man whose name was Scipion, and that the said woman, called Scipion, took the name after her father Scipion; and that the said woman, Scipion's mother, was an Indian woman, of the Natchez tribe of Indians; and this deponent saith she

has frequeutly heard the said Antoine Rivierre, her father-in-law, declare the same thing when speaking of the descent and blood of the said woman Saypion; and this deponent further saith, that she knew an Indian woman whom she sometimes seen at the house of Mr. Jacques Chauvin, when he resided in St. Louis, whose name was Marie Tata, as she was generally called, and who was the sister of the said Scipion, as this deponent always understood, from the said Antoine Rivierre, as well as from other persons in general, and never heard otherwise from the family of Tayon, or Tayon himself, nor any other person; and this deponent saith, that the complexion of Marie Tata, as she was called, was brighter somewhat than the complexion of the woman Scipion, and looked like a clear blooded Indian woman; and that the said Marie Tata was in the exercise of her freedom, and was said to be a free woman; that she don't know that she ever heard who was Marie Tata's father, but that she understood from the said Antoine Rivierre, and other people, that the said woman Scipion and Marie Tata were sisters, by the mother's side; and this deponent further saith, that she has heard the said Antoine Rivierre say, that he knew the said woman Scipon and her sister Marie Tata, at Fort au Chartres, when quite young, before Tayon brought, or had them in his possession at St. Louis, and this deponent further saith, that when she was quite young, and during the time that Count O'Reily was commandant of Louisiana, &c. as this deponent believes, that she heard it generally said, as a matter of public notoriety, that the then Governor or Government had ordered, by a proclamation, that no more Indians should be bought and sold as slaves by the inhabitants of Louisiana, whether prisoners of war or not, and that all Indian slaves and their descendants, who were then held in Louisiana, should be set at liberty; and this deponent saith, that she knew one instance of an Indian descendant, who was a woman, claiming her freedom under the said proclamation, as this deponent believes, and on proving the fact that she was of Indian descent, that she was liberated. This deponent saith that she is fifty-eight years of age, as she believes, and that nothing but her age would render her attendance at court inconvenient. Further this deponent saith not.

her
MARGARET VAIL ⋈ RIVIERRE.
mark

RENE DODIER.

Rene Dodier, being duly sworn, on his oath, saith, that he knew Marie Sapion; that she lived with Mr. Joseph Tayon; that her complexion was of a brown color, or what is called a half breed of Indian and negro, without designating whether the father or the mother were of negro or Indian blood; that he hairs was about six inches long, more or less, and undulating; that he is fifty-nine years old, and knew her first at Mr. Tayon's when he was about nine or ten years of age; she was there in the capacity of a servant, that she was then

a grown person, and believes about thirty years of age; that he knew her children, to wit, Catiche, Celeste, and Margarite; she had also a son who was called Sauvage, (Indian) that Marguerite lives now at Pierre Chaoteau's; Catiche is hired out, as also Celeste; that the public opinion was that Scipion was descended from a negro father and an Indian mother; heard it mentioned by M'de Chauvin as well as M'de Chevallier, that M'de Chouvin and M'de Chevallier were daughters of Mr. Joseph Tayon, the father.

Question by plaintiff's counsel. What was the public report, concerning her freedom or slavery?

Answer. The public opinion was, these persons could not be slaves, being of Indian blood.

This deponent saith that he saw Marie Scipion for the first time at Mr. Tayon's in a stone house, on the lot now occupied by Mr. Chenie, of St. Louis.

Question by cousel by plaintiff. Was it the universal custom among the French inhabitants of this country, under the French Government, to make slaves of every Indian?

Answer. He never heard of it; under the French Government, it was not the case.

Question by same. Did you not understand that Count O'Reily did, by proclamation, prohibit the enslaving of Indians and holding them as slaves?

Answer. O'Reily forbade the enslaving of Indians, the same was done by proclamation, made by the sound of the drum at the corners of the streets, both at New Orleans and at St. Louis.

Question by same. Did not O'Reily, by proclamation, declare the Indians held as slaves, to be free, and direct their being set free?

Answer. Yes: and it was further ordered that none should be thereafter held as slaves; that the same regulation applied to both Lower Louisiana and this country; that all Indians held as slaves were to be emancipated and set free.

Question by same. Did you know of any Indians held as slaves, previous to the proclamation aforesaid, to have been set at liberty in-consequence of the same?

Answer. Yes.

his
RENE ⋈ DODIER.
mark

FRANCIS DORLAC.

Francis Dorlac, being duly sworn, on his oath, saith, that he is sixty-five years of age, was born in St. Geneveive; he further saith, that he knew Marie Scipion for the first time about forty-three years ago, she was then living at Mr. Tayon, the father, in the town of St. Louis, on the lot now owned by Mr. Chenie; she was of a reddish cast; the custom was at that time to wear the hair concealed under a

handkerchief, but what was seen of her hair appeared to be curly, like a half breed; heard from M'de Chevallier and M'de Chauvin, that she was born of a negro father and an Indian mother; heard of it at St. Charles; that he heard it said that she was half Indian and half negro; understood (by proclamation from the Government) that the Government did not sanction Indian slavery; that Indians held in slavery, on application to the commandant or Governor at New Orleans, were set at liberty; he knew of two of Mr. Tayon's Indian slaves being set at liberty under the proclamation; one of a Mr. Lorain, immediately after the promulgation of the Spanish decree relating to Indian Slavery, all the Indian slaves were set at liberty; never heard the proclamation published, though it might have been so when he was absent; never saw it stuck up any where; knew of its publication by public report; and understood at the same time, that a provision of the said proclamation, that no other Indians should be brought down the Missouri to be enslaved; supposes Marie Scipion might have been set free at New Orleans, as others were upon application, if she had had the means of going down; knew Marie Tata; she was the sister of Marie Scipion; he knew her at St. Genevieve forty-nine years ago; she afterwards lived at Prairie du Roucher; she was a full blooded Indian; never saw the father of Marie Scipion; understood that he was a negro.

Question by Mr. McGirk. What was the practice of the French with respect to enslaving slaves?

Answer. I do not know.

Question by same. Was it the custom of Indians, who came about the French villages, to engage themselves to the inhabitants, as laborers, and live with them as servants?

Answer. No.

Question by same. Did you ever know any Indians to go among the white inhabitants and remain with them as servants?

Answer. No.

Question by same. What became of the Indians held in slavery under the French and Spanish Governments?

Answer. The few that were here went down to New Orleans, where, upon application, they were set free, (for the never would have been set free here) and afterwards scattered about.

Question by same. Do you know of any other of the Indian slaves held by the French inhabitants of this country, other than the children of Marie Scipon, being held in slavery at this time?

Answer. No. I know of no others; those that were not released at New Orleans went about here, and never were attempted to be again enslaved.

his
FRANCIS ⋈ DORLAC.
mark

JOSETTE BERGER.

Josette Burger, being duly sworn, on her oath saith, that she is acquainted with Catiche, the above named mulatto woman, who is claimed by Pierre Chouteau, sen. as his slave; that the mother of Catiche was Marie Scipion; that Marie Scipion was a mulattress, partly Indian and negro blood; that she understood that her father was a negro and the mother an Indian woman of the Natchez tribe of Indians; this she understood in the family of the Tayon's; she, the deponent, having been raised by M'de Chevalier, the daughter of Mr. Joseph Tayon; that when deponent first knew Marie Scipion, she was living at Mr. Tayon's, the father; that said Marie Scipion lived with Mr. Tayon until the death of M'de Tayon, his wife, when she removed to the family of M'de Chauvin, also a daughter of said Joseph Tayon; that it is about forty years since she first heard of said Marie Scipion being of Indian blood; that she was always represented in the family of Tayon, as being of Indian blood; deponent states that she, the said deponent, was raised in the family of said Tayon, and came to them when very young; that she, deponent, heard often mention of a certain Marie Tata, in the family of said Tayon, though she never knew her; understood that she was an Indian or half Indian woman; does not know whether she ever lived in the family of Tayon; understood that she lived at the Prairie du Rocher; understood that Marie Scipion had come to said Tayon in right of his wife, who had received her of some of her friends as a present, at Fort Chartress; the defendant further saith, that she is acquainted with the children of Catiche; they, Mugele, Chehte, Julie, Joseph, Ellene—they are still held as slaves by the said Pierre Chouteau, sen. that she knows of three of Mary Scipion's children now living, to wit, Catiche, Celeste and Marguerite; that in the family of Mr. Tayon, they were treated not as slaves, but as persons who, from their birth, might be entitled to freedom; that it was not uncommon, formerly, to see in white families Indian men and women as servants for a limited time, though they were not considered as slaves.

her
JOSETTE ⋈ BERGER.
mark

LOUIS LEMONDE.

Louis Lemonde, being also duly sworn, on his oath saith, that he was acquainted with Joseph Tayon, sen. that he first knew him in this place about twenty-five or thirty years ago; knew a woman named Marie Scipion, whom he understood to be Mr. Tayon's servant; that she was of a brown color; her hairs were undulated, not very long, and black; never knew her parents; understood, generally, that the mother of the said Marie Scipion was Indian, or of Indian blood, and was the current report; the deponent further saith that he does not recollect hearing say who the father of Marie Scipion was.

Question by defendant's attorney. Was Marie Scipion understood to be the slave of Mr. Tayon, or treated as such?

Answer. I do not know; I never was at Mr. Tayon's house.

Question by same. Do you know any of the children of Marie Scipion?

Answer. I knew Catiche.

Question by same. With whom did Catiche live previous and subsequent to the death of her mother, Marie Scipion?

Answer. She always lived with Mr. Cade, (Pierre Chouteau;) I understood her to be his slave.

his
LOUIS ⋈ LEMONDE.
mark

MARIE LALANDE.

Marie Lalande being also duly sworn on her oath saith, that she knew Scipion, the mother of Catiche, who lived with Mr. Tayon; that she knew her about forty years ago; she was of a red complexion; her hairs were long, say about six inches and undulated; she does not know who the mother of Marie Scipion was; she never troubled herself about it; she knew Marie Tata the sister of Scipion; she was a full blooded Indian; saw her many times; she was addicted to drinking, and many times frightened this deponent; Marie Scipion was currently reported to be of Indian blood; her father was a black man and her mother of Indian blood, and from the circumstance of her sister, Marie Tata, being a full blooded Indian, she infers that Marie Scipion must have been of Indian blood.

Question by defendant's attorney. You state that Marie Tata was the sister of Marie Scipion; how do you know that?

Answer. I understood it was so; I did not know it of my own knowledge; I was too young then, but was told so; I knew her at St. Genevieve.

Question by same. When you knew Marie Scipion, was she a slave in the family of Mr. Tayon?

Answer. I do not know; I never troubled myself about the slaves who were at their master's.

Question by same. How old were you when you first knew Marie Scipion?

Answer. I do not exactly know; I came here to live about two years before the year of the attack; Marie Scipion was then here, living at Mr. Tayon's; never heard how *how* the mother of Marie Scipion came into the hands of Mr. Tayon, nor how Marie Scipion herself came there.

her
MARIE ⋈ LALANDE.
mark

MARIE L. CHAUVIN.

Madame Marie Louise Chauvin, upon her oath saith, she is acquainted with Marguerite, the plaintiff in the present action, who lives with Mr. Pierre Chouteau, whom she believes was born in the year 1778; she saith she was acquainted with the mother of the said Margaret, whose name was Marie Jane, and was sometimes called Marie Scipion, who belonged to and lived with the father of the deponent, Joseph Tayon; the said Marie, after the death of Madame Tayon, lived at Mr. Chouteau's, where Joseph Tayon lived until his death; after the death of Madame Tayon, Marie Scipion lived with Mr. Chouteau several years until she was taken sick, when she came to the house of this deponent, where she died; she was at the time of her death about sixty years of age, as well as this deponent recollects; this deponent saith that Joseph Tayon, after the death of his wife, lived with Mr. Pierre Chouteau, where he died; Marie Scipion died in June, 1802; in January, 1806, this deponent sent for the said Marie Scipion, to Mr. Pierre Chouteau's, where she was sick; and in June, the year following, she died, remaining with this deponent more than a year; the said Marie Scipion was in the possession of this deponent's father, from the time of his marriage, until she was removed from Mr. Chouteau's to the house of this deponent, and this deponent has always understood she came to her father by his marriage; this deponent knows Catiche and Celeste, children of the said Marie Scipion; the said Catiche is now in the possession of Mr. Pierre Chouteau, and Celeste is a part of the estate of Madame Helen Chevallier; Mr. Chouteau claims the said Catiche, by virtue of a sale from this deponent, but when this deponent sold her pretensions to the said Chouteau, she knows not whether her husband signed the article of sale; this deponent raised the said Catiche from a year old, and she was about forty years old when this deponent sold her to Mr. Chouteau; during this time Mr. Chouteau obtained possession of the said Catiche, and kept possession about ten years, and this deponent re-gained possession about a year before she sold her pretensions; this sale was somewhere about eight or ten years since; the said Catiche was a gift from this deponent's parents to this deponent; Madame Chevallier raised Celeste from her birth, at which time she was given to her by Joseph Tayon and wife, who were the father and mother of the said Madame Chevallier, the said Celeste was in the continued possession of the said Madame Chevalier until she was taken therefrom by Mr. Chouteau; about the same time he took Catiche from the possession of this deponent; this deponent knows not under what title the said Chouteau claimed the said Catiche and Celeste, unless it was as the administrator or one of the heirs of the said Joseph Tayon; this deponent has heard from her father and mother, that the said Marie Scipion was bought by this deponent's grandmother from Madame Erve, and given by her to the mother of this deponent; this deponent has head from her mo-

ther and father that the said Marie Scipion was, on the mother's side, an Indian; and this deponent knew a negro man, who was generally said and believed to be the father of said Marie Scipion; his name was Scipion; the last that deponent knew of this negro man, his master took him to New Orleans; this deponent has generally understood that the mother of said Marie Scipion was an Indian, captured by the French near Natchez, and brought to Fort Chartres where she was sold as a slave; and this she has heard as well from her father and mother as others; this deponent knew Marie Tata, the sister of Marie Scipion, who had every appearance of being a full blooded Indian; who was a slave when this deponent first knew her, but was afterwards owned by a Frenchman and set at liberty—he having lived with her as his wife, and had children; the father of this deponent had an Indian woman named Marie Louise, who had two male children, Aiken and Julien, who ran away and passed for free men, at the commencement of the Spanish Government, and went to New Orleans, where one of them married a white woman; they went away after the publication of an ordinance by O'Reily, the Spanish Governor of Louisiana, declaring all the Indian slaves then in the province of Louisiana free on the death of their masters, and those born after the publication, free at their birth, prohibiting any sales by the persons then in possession of any such slaves; this deponent read the ordinance to her father and conversed with him on the risk he ran of loosing his Indian slaves; and remembers that he sold one of those slaves, and was compelled to take it back and hush it up, least he should be fined under the ordinance; this ordinance was posted up at the church door, and in hand bills at St. Louis, where this deponent then lived, which was before her marriage, but the exact time she does not recollect; this deponent remembers that her father has often said, after the publication of this ordinance, that Marie Scipion and her children would be free at his death in consequence of that ordinance.

MARIE LOUISE CHAUVIN.

J. B. C. LUCAS.

J. B. C. Lucas of the city of St. Louis, of lawful age, being duly sworn, upon his oath saith, that he knew nothing, of his own knowledge, of the matter in controversy; that some years ago, whilst he was one of the judges of the superior court of the Territory of Missouri, about twenty-four years ago, and since that time there were trials before the said court relating to the freedom of the descendants of Maria Scipion, which said Maria Scipion was understoood and admitted to be the property of Mr. Tayon of St. Louis; that particularly at the first trial, which took place more than twenty years ago, he heard a man by the name of Bacanne, who said that he was past the age of eighty years, and one Pierre Bequet, who said that he was seventy-two years of age, or more, who both stated, on oath, before

said court, that they knew Marie Scipion at Fort Chartres, whilst the said Tayon lived at that place; that they also knew her mother of the name of Marie; that the said Marie, mother of Marie Scipion, was an Indian woman of the Natchez tribe; that he also heard a woman sworn in the same cause, of the name of Cochon, who deposeth, that she knew Marie, the mother of Marie Scipion; that she was a black woman or negro woman; that the two first named witneses were as positive that Marie, the mother of Marie Scipion, was an Indian woman as the last named witness was that said Marie was a negro woman; this deponent recollects, also, that Baccanne stated that he was a young man at the time he knew Marie, whom he said to be an Indian woman; Madame Cochon stated, in her testimony, that she was very young, and not a woman grown, when she knew Marie, whom she had before stated to be a negro woman; the deponent understood, from the whole testimony given, that Marie, spoken of by Baccanne, and Pierre Bequet, was the same woman also spoken of by Madame Cochon; the witnesses Bacanne, and Pierre Bequet, also, in their testimony, explained why the name of Marie Scipion was acquired by her, it being from the circumstance that she was the daughter of the said Marie and a negro man called Scipion, who was generally reputed to be the father af the said Marie Scipion, and who was a negro man; it was also given, in testimony, that said Marie had another daughter called Marie Tata, who was half Indian and half white, and that said Marie Tata, generally called Marie Scipion her sister; that Madame Chauvin, who was the daughter of the defendant, Tayon, at the trial in which Bacanne and Bequet, and Lewis Labeaume testified, that Mr. Tayon, the defendant, said, in the house of Madame Chauvin, not long before, perhaps two or three years, and in their presence, that if the descendants of Indians, by the female, were free, or could not be slaves, Marie Scipion and her descendents were free, or ought to be free; Madame Cochon, as well as this deponent recollects, stated in her testimony, that she was about sixty-five years of age at the time she testified, as aforesaid, and she also testified that the mother of Marie Scipion was brought to bed at the house of the mother or aunt of Madame Cochon, who was a midwife, and at that time she, Madame Cochon, was a small girl.

Cross examined by Mr. Spalding, attorney for defendant.

Question. In giving an account of the testimony of Bacanne, Bequet, and others above, do you give the words of those witnesses, or merely the substance of their testimony, as you understood it?

Answer. I may or may not give the words; I have not such a nice recollection as to that; these people were, to all appearance, illiterate; they spoke French without appearing to be versed in the principles of the language, but the subject matter being in relation to something very plain, I am satisfied that their language was plain and explicit, and no doubt remains, in my mind, as to the meaning of what they said, which is indubitably as I have stated before, being

acquainted with the French language not less practically than theorectically.

Question by same. Did said Bacanne say he was well acquainted with the mother of Marie Scipion, and did he say of what tribe of Indians she was?

Answer. He said he was well acquainted with the mother of Marie Scipion, and that she was of the Natchez tribe of Indians.

Question by same. Did the said Baccanne say how he obtained his information that she was of the Natchez tribe?

Answer. I have a general recollection of a variety of questions put to said Bacanne to ascertain the fact that she was of the Natchez tribe, but not particular enough to designate or specify how, or in what manner, he had ascertained that she was of that tribe; he appeared generally to speak pertinently on the subject, and as a witness, pretty confident of what he said, and referred, repeatedly, to his being a man grown when these things took place.

Question. Did said Baccanne speak of said Marie as being a captive taken in war?

As these questions respecting the freedom of the descendants of Marie Scipion was frequently before the court while this deponent was one of the judges of said superior court, and has also been before the circuit court since this country has become a State, in which latter case he was called as a witness; he has heard a great deal of testimony given upon the same question in these two courts; he has heard, for instance, a question made, how the witness, giving testimony, had come to the knowledge that Marie, the mother of Marie Scipion, was of the Natchez tribe, but cannot say whether such question was put to Baccannie, and if so, what answer he made; all he remembers, but is not very confident, that it was stated by Baccanne, that he, Baccanne, was living at Fort Chartres when Marie was brought in a prisoner.

Question by same. Did said Bacanne and Bequet state that Marie, the mother of Marie Scipion, was held as a slave at Fort Chartres?

Answer. I believe they did.

Question. Did you keep any written notes of what the witnesses stated on said trials?

Answer. I believe I did, but I do not recollect to have consulted them since, and I think they are now lost.

Question by same. What sort of proceeding was it that the evidence of Baccanne, Bequet, Cochon, Chouvin, Labeaume, and others, were given as aforesaid.

Answer. There was so much irregularity in the proceedings that I cannot state accurately, but it was a question of freedom between Tayon and the descendants of said Marie Scipion.

Question. What was the result of that proceeding?

Answer. There was a verdict given for the defendant, Tayon, and a judgment of the court in his favor.

JOHN B. C. LUCAS.

STATEMENT OF J. B. C. LUCAS.

The plaintiff also read to the jury a statement of John B. C. Lucas, as follows:

In the case of Carmelite against Pierre Chouteau, sen. in the St. Louis circuit court, for freedom, Judge John B. C. Lucas was sworn as a witness on the part of the plaintiff, who stated, on oath, that he knew nothing of the descent or parentage, or condition of the plaintiff, of his own knowledge, but what he does know he has derived from others; that on a trial for freedom, by some of the descendents of a certain colored woman, called Marie Scipion, against Joseph Tayon, sen. in the old general, or superior court of Missouri, in 1805, or 1806, whilst he sat as a judge in that court, that one Pierre Bequet, and an old man, Rivierre, the father of John Bte. Rivierre, one of the witnesses sworn in this suit, were sworn as witnesses in that case, and gave testimony in court; that old man, Rivierre, then stated on oath, that the mother of Marie Scipion (the mother of the plaintiff) was an Indian woman of the Natchez tribe of Indians; that she was brought to Fort Chartres, in the now State of Illinois, about the time of the Natchez defeat by the French, from New Orleans, and the witness heard that she was taken at that place; that she was in the capacity of a servant among the French, at Fort Chartres, during her life; that when the mother of Marie Scipion was brought to Fort Chartres, the witness (old Baccanne) was quite a young man, not old enough to go to battle; that Marie Scipion's mother was brought to Fort Chartres about the time of the defeat of the Natchez Indians by the French of Lower Louiaiana; that Baccanne was, perhaps, ninety years old, but was a hale old man for his years, and seemed to be in possession of his memory and faculties perfectly. Witness further stated, that Pierre Bequet testified, on said trial, that he knew the mother Marie Scipion at Fort Chartres, in Illinois, who was an Indian woman of the Natchez tribe; that she was taken by the Louisiana French, at the Natchez defeat, as was reported, and brought to Fort Chartres about the time of that defeat, and that she was held in slavery at Fort Chartres by him who had possession of her. Judge Lucas further testified, that on the trial of said cause, a certain M'de Chocon was sworn, and testified on the part of the defendant, Tayon; and that she testified that her aunt was a midwife at Fort Chartres, with whom the witness (Madame Cochon) had lived, and that Marie Scipion was born of a negro woman, who was then in the care and nursing of her aunt, and that her aunt officiated as midwife at the birth; that she, the witness, was then quite young. Mr. Lucas further testified, that Madame Helen Chevallier, and Madame Chauvin, daughters of Joseph Tayon, the then defendant, and Louis Labeaume

(who are now all dead) were also sworn in said suit, and testified on the part of the plaintiff; that they severally testified, that about the time of the publication of one of the proclamations of Governor General O'Reily, in Upper Louisiana, which proclamation had relation to the liberation of Indian prisoners taken by the Louisiana French, and by them detained as slaves, that Joseph Tayon, who then held Marie Scipion in slavery, stated, in a conversation with said witness on that subject, that according to that proclamation or ordinance, Marie Scipion and her children were all free, because the mother of Marie Scipion was an Indian woman. Mr. Lucas further stated, after voluntarily returning to the bar, that Madame Cochon did not swear that she herself acted as midwife at the birth of Marie Scipion, nor was the mother of Marie Scipion then under her care, but that it was the mother or aunt of the witness (vide C.) who was the nurse and midwife. That Pierre Bequet appeared to have the full exercise of his faculties and senses when he testified, although he was a very old man. That the question then before the court (the old superior court) was one of pedigree of the plaintiffs.

M'DE MARESCHALL'S TESTIMONY.

In the case of Carmelite, before named, Madame Mareschall was sworn, and testified as a witness on the part of the plaintiff, who stated, on oath, that she knew Joseph Tayon when he lived at Fort Chartres, in Illinois, opposite or nearly opposite to St. Genevieve, which was more than sixty years since; he then had a family; she also knew him after he removed to, and resided in St. Louis, which removal was nearly fifty years since; that Tayon died about twenty years since in St. Louis, at the house of Pierre Chouteau, the defendant; he had several children, to wit, Joseph, Francis, Charles, and John, and his daughters were Madame Helen Chevalier, Madame Chauvin, and another called Jeanette; witness knew Marie Scipion, at Tayon's, who passed for a griffe, that is, a half negro and half Indian; first saw Marie Scipion about fifty years since, when St. Louis was first settled, Marie Scipion was then, probably, about twenty years of age; witness always heard and understoood that Marie Scipion's mother was an Indian squaw, and her father a negro man; witness recollects particularly to have heard old Rivierre, called Baccanne, (who died about ten years since at the age of one hundred and twelve years) say about forty years ago, that he knew the mother of Marie Scipion well, and she was an Indian squaw, and her father a negro; witness further stated, that the hair of Marie Scipion was black, and several inches long, rather curly, but not like that of a negro; her complexion was rather reddish, but darker than an equal mixture of white and black, or than that of a common mulatto; that she, witness, was born in the village of Cahokia, in Illinois; never heard old Riviere say that the mother of Marie Scipion was taken

prisoner in war; that witness knew Marie Tata, who was an Indian woman, and was generally reputed to be the sister of Marie Scipion.

FRANCIS MARESCHALL.

In the case of Margarite against P. Chouteau, for freedom, in the circuit court of St. Louis county, Francis Mareschall was sworn as a witness, and testified on behalf of the plaintiff, who stated, on oath, that he knew Joseph Tayon at Fort Chartres, in Illinois, upwards of sixty years since, and afterwards at St. Louis, when he first come to settle himself, about fifty years since, at the time Canada was taken by the English; he knew Tayon till his death; witness resided in St. Louis; witness knew Tayon's family till his death; that Tayon died at Pierre Chouteau's house; witness knew Marie Scipion, who lived in Tayon's family; she passed for a half Indian and half negro; always heard and understood, from public report, that her mother was an Indian and her father a negro man; first heard of her parentage more than fifty years ago from Baccanne, the elder, who died eight or nine years since, who was one hundred and fourteen years old at his death, and was the father-in-law of the witness; that said Baccanne or Rivierre said he was well acquainted with the mother of Marie Scipion when she came to Fort Chartres from Natchez and got her freedom; witness stated that he also heard the same things fro.n many other persons, both old and young; that he the sister of Marie Scipion, who was a full blooded Indian; her name was Marie Tata, and that Maria Tata frequently came with her children to see Marie Scipion; witness understood that they were sisters from themselves.

DEFENDANT'S DEPOSITIONS.—AUG. CHOUTEAU.

The defendant then read to the jury the following depositions:

Auguste Chouteau, sen. sworn; Marie Scipion was a negro slave belonging to Mr. Tayon, a female; he always understood that she was a daughter of a negro woman, slave to Mr. Guion, which Mr. Guion gave to Mr. Joseph Tayon, his relation; Marie Scipion was of a brown color, with woolly hair like that of a negro; knew Marie Scipion a very long time; the first time in the year 1764; he hired her often, sometimes fifteen days, sometimes more; he always knew her as a slave belonging to Mr. Tayon, of whom he hired her, and paid for her services; he never knew the mother of Marie Scipion; does not know when she died; did not know her father; she was universally known to be of negro blood on the mother's side; at the arrival of the Spanish Government here there were slaves of Indian blood, and after, of the mother's side.

Question by plaintiff's attorney. How he knew the fact that Mr. Gayon gave the mother of Marie Scipion to Mr. Tayon?

He heard it publicly said that Mr. Guion gave gave a negro woman

and man, with other slaves and a plantation, to Mr. Tayon, his relative.

Question. Did you know it any other way than by public report?

Answer. No; only by public report at Fort Chartres.

Question. Did you know the name of the mother of Marie Scipion?

Answer. No.

Question. Did you ever see her, the mother?

Answer. No.

Question. How old was Marie Scipion when you first saw her?

Answer. She was a young girl, does not know her age, but she was able to do the work of the house.

Question. Do you think she was as much as fifteen years old?

Answer. He does not know.

Question. Was Marie Scipion a negro woman?

Answer. Yes she was a negro, at least I considered her as such?

Question. Had she not the complexion of an Indian?

Answer. No; she was a reddish black, not the cast of an Indian color.

Question. Was Mr. Tayon in possession of Marie Scipion until her death?

Answer. Does not know.

Question. How long is it since he saw Marie Scipion last?

Answer. Twenty-five or thirty years ago.

Question. Had Mr. Tayon no other slave by the name of Marie Scipion?

Answer. Not that he knows of.

Question. Do you know how many slaves Mr. Tayon had?

Answer. He had several, but does not know how many.

Question. Did you know all the slaves of Mr. Tayon?

Answer. No, he had many.

Question. Do you know whether the mother of Marie Scipion was the mother of Margaret, plaintiff in this action?

Answer. She had several children, but does not know if this was one--Celeste, Catiche, and others.

AUG. CHOUTEAU.

MADAME VEUVE DUBREUIL

Madame Veuve Dubreuil, sworn: I knew Marie Scipion, well; she was often hired by me of Mr. Joseph Tayon; she was always known as a mulatto slave; she was a dark mulattress; she *she* knew her for the first time about fifty years ago, when she first came to the country; she was wet nurse to one of her children, for six months, at her master's house, Mr. Joseph Tayon; she was generally considered a slave of negro blood; she had several children, Catiche, and one called Sourie, which was a nick-name; she does not know the real name; always knew her as the slave of Mr. Tayon, viz: Marie

Scipion; is certain she was of negro blood; as certain as that she is one day to die.

Examination by plaintiff's attorney.

Question. Of what age was Scipion, when you first knew her?

Answer. More than twenty-five, and had several children.

Question. Did you know either the father or mother of Scipion?

Answer. Oh, no.

Question. Was she in Mr. Tayon's possession when she, witness, first saw her, Marie Scipion?

Answer. Yes.

How do you know that Scipion was of negro blood?

Answer. She was black, and had wool upon her head; she did not want papillotts to curl her hair.

Question. Was she a negro or mulatto woman?

Answer. She was so dark a mulatto, that she appeared more like a negro.

Question. Are you certain that her hair was curley?

Answer. It was curled like a sheep.

Question. Do you know if Scipion was a slave or not?

Answer. Always knew her as a slave?

Question. Have you never heard Joseph Tayon say Scipion was a free woman?

Answer. Oh, no; she was always a slave; she would not have remained if she had been free.

Question. How do you know she would not have remained?

Answer. If I knew it! If my mulatto woman knew she was free would she remain?

Question. Do you know all the slaves of Mr. Tayon?

Answer. I paid not attention to how many, but as this woman was frequently hired by me, I knew her well; did not know how many.

Question. Was you intimate with Mr. Tayon's family, and were you frequently at his house during his life time?

Answer. I was intimate, and on most friendly terms; of course frequently there ever since she has been in the country, until her death.

Question. Do you recollect ever to have seen, in the possession of Mr. Tayon, Indian or half Indian slaves?

Answer. Yes; there was one who died lately; she does not know how many he had.

Question. Had Mr. Tayon any female Indian slaves about his house when you knew him?

Answer. There was an old woman, who died about twelve years ago.

Question. What was her name?

Answer. Marie Louise.

Question. Was she not sometimes called Marie Scipion?

Answer. No, certainly not; she was a slave until the Spanish Government declared her free; many Indian slaves remained with their masters, after they were so declared.

Question. Did Marie Louise remain with Mr. Tayon after she was declared free?

Answer. She does not know.

Question. Were you in this country when the Spanish Government took possession?

Answer. No; I was at New Orleans.

Question. Did you ever know any other Joseph Tayon in this country?

Answer. No; except his son.

Question. Was Marie Scipion the mother of Marguerite, the plaintiff?

Answer. She was.

Question. How do you know it?

Answer. I heard it so said.

Question. Do you know Marguerite?

Answer. No; but I believe her to be the one named Sourie.

Question. How old are you?

Answer. Seventy.

VEUVE DUBRUEIL.

JULIE VASQUES.

Julie Vasques, sworn: I knew Marie Scipion, at Mr. Joseph Tayon's, about forty or forty-five years ago, as a slave; she was nearer to a negro, than a mulatto, in color; her hair was mostly like that of a mulattress; I went often to Madame Tayon's, and saw her there as a servant; never knew any other slave but her belonging to Mr. Tayon, of the same name; Marie Scipion had children; one named Catiche, Celeste, and Sourie; she saw Marie Scipion frequently in possession of Mr. Tayon's children, lent to them by their father; she was generally known here to be the slave of Mr. Tayon, and a mulattress; never knew her mother.

Cross examined by Plaintiff's attorney.

Question. Was not Marie Scipion sometimes called Marie Tata?

Answer. She knew nothing about it, she always heard her called Scipion.

Question. Did you know the father of Scipion?

Answer. No.

Question. Did you know all Mr. Tayon's slaves when you saw them?

Answer. She knew them when she saw them, but does not know how many.

Question. Had Mr. Tayon any Indian slaves, male and female?

Answer. No; I do not know.

Question. Were there any people living with Mr. Tayon?

Answer. Several; one called Marie Louise; knew not the names of any other.

Question. Were these Indians living with Mr. Tayon as slaves, or as free persons?

Answer. At that time they passed for slaves.

Question. Did you know Marie Scipion until her death?

Answer. No.

Question. How long did you know Marie Scipion, from first to last?

Answer. About ten years, but is not certain.

Question. When did Mr. Tayon die?

Answer. She does not know, but has not seen him for twenty years.

Question. Do you know what became of Scipion, after Mr. Tayon's death?

Answer. Does not remember, but knew her as the slave of Mr. Tayon.

JULIE PAPIN VASQUES.

ELIZABETH HORTIZ.

Elizabeth Hortiz, sworn. I knew Marie Scipion, as a slave of Mr. Joseph Tayon, 38 or 39 years ago, a very dark mulattress; saw her frequently, as she was hired out by Mr. Tayon, as a slave; knew her until her death, about 20 years ago, always as the slave of Mr. Tayon; had the hair of a mulattress; she had three children: Catiche, Celeste, Sourie, as she was called; Margaret, her real name; Marie Scipion was always publicly known as the slave of Mr. Tayon.

Cross examined by plaintiff's attorney.

Question. Which died first, Mr. Tayon, or Scipion?

Answer. Scipion.

Question. How many years before Mr. Tayon?

Answer. One or two.

Question. Did Scipion live with Mr. Tayon, at the time of her death?

Answer. She died with her master, at Pierre Chouteau's, senior.

Did you know the father or mother of Scipion?

Answer. No.

Question. Did you know, of your own knowledge, that Scipion was the slave of Mr. Tayon?

Answer. Yes; always saw her serve in his house, or hired out as his slave.

Question. Marie Scipion—had she no nick-name?

Answer. No; never heard any other than Marie Scipion.

Question. Do you know that Marie Scipion was the mother of Celeste, Catiche, and Sourie?

Answer. Yes; they always called her, mother.

Question. How do you know that Sourie is Margaret?

She has heard her called Margaret, and baptised, as was said, by that name.

Question. Was Scipion not reserved, at the sale of Mr. Tayon, and also her children?

Answer. She know nothing of it.

her
ELIZABETH ⋈ HORTIZ.
mark

MAD. TAYON VOE. DEAGLE.

Marianne Tayon, widow of Etieaue Deagle, answereth and saith:

Question on the part of the defendants. Did you know Marie Scipion?

Answer. Yes.

Question by same. How long since you first knew her?

Answer. About fifty-two or fifty-three years ago; before I left this country.

Question by the same. Where was Marie Scipion then, and what was her condition?

Answer. She was at my father's, and she was a slave.

Question. How long had you been acquainted with Marie Scipion, before you left this country?

Answer. I knew her from infancy, and until I left the country.

Question. Did you know Marie Scipion a slave all that time; and by whom was she held as a slave?

Answer. I did; she lived in my father's family, by whom she was held as a slave, all that time.

Question by same. Did you know Marie Scipion's mother?

Answer. No.

Question by same. Who were reputed to be the mother and father of Marie Scipion, in the family of Joseph Tayon, and among the acquaintances of Marie Scipion?

Answer. I always understood that the mother was a negress, and father an Indian.

Question by same. Under the former Government of this country, were Indians held as slaves in any instances?

Answer. All those who had Indians, held them as slaves; an order was afterwards made by Government, forbidding the further introduction of Indians, as slaves.

Question by same. Were any Indians held as slaves, in Opelousas, at the time that you moved to that country?

Answer. I knew several families of Indians, held as slaves, by a Mr. Matieu; they sued for their freedom, and failed in obtaining it.

Question by the attorney for Plaintiffs. What was the name of the reputed father of Marie Scipion?

Answer. I understood his name was Scipion.

V. DAIGLEY.

S. PRATT.

Sebastian Pratt, deposeth and saith: He arrived in 1756, in the country, and in 1757 went to Fort Chartres; he lived with Mr. Tayon, Joseph Tayon, the father-in-law of Mr. Pierre Chouteau, sen. While he lived with Mr. Tayon, he observed the slaves of Mr. Tayon, in the first year of his residence; he had a negro woman called Mary; one Indian woman called Mary Louise; the Indian had two children; there was one slave, also a female called Scipion, who appeared to be about ten or eleven years old; she was treated and well known as a slave; he knew her in the possession of Mr. Tayon, after he removed to St. Louis, and for several years after; and he had no other slave, by that name, but her; did not know the mother of Marie Scipion; there were at Fort Chartres, and elsewhere through the country, a great many Indians slaves, and but few blacks; the Indians were universally acknowledged as slaves, and frequently sold as such before the Governor; he himself sold several, one to the commandant, that he brought from the Mississippi; Scipion was very black; had hair like a negress; the commandant, that he speaks of, was the English commandant, at Kaskaskia; from his belief of the character of Mr. Tayon, he is certain he would not have held a person as a slave who was not so; he was in the habit of frequenting Mr. Tayon's house, in Fort Chartres, and a long time after, in St. Louis; and never heard Mr. Tayon say Scipion was free; but on the contrary, she was always treated as a slave; a majority of the Indians held then as slaves, came down the Missouri; brought by the traders, and were of different nations; there were many Indians slaves after the first establishment of St. Louis, and few blacks in it; Mr. Tayon removed to St. Louis, soon after its establishment.

S. PRATT.

MAD. M. E. AMELIN.

Marguerite Alexie Amelin, deposeth and saith, that she was acquainted with Marie Scipion, the mother of Catiche, Sourie, and Celeste; that deponent knew said Marie Scipion, when she was living with Mr. Tayon, sen. in the town of St. Louis; that deponent recollects said Marie Scipion; about 28 or 25 years since, at which time said Marie Scipion lived as a slave in the family of said Tayon; that deponent was told by said Marie Scipion that the father of the said Marie Scipion was a negro man, named Scipion, and that the mother of said Marie was and Indian woman, who had been taken prisoner, and reduced to slavery, in the Natchez war, in the time of the French; that the mother of Marie Scipion was taken for a slave, in the time of war, by the French people.

Cross examined by Mr. McGirk, on behalf of plaintiff.

Question. Did Marie Scipion tell you how she knew the above facts?

Answer. Marie Scipion did not say how she knew these facts, but deponent supposes that she knew them from her mother.

Question. Were you well acquainted with Marie Scipion?

Answer. Yes; I knew her well; I saw her very often.

Question. How long ago has Mr. Tayon died?

Answer. About 17 years, or more; is not certain how long ago.

How long ago since the death of Marie Scipion?

Answer. About twenty-five or thirty years ago; believes that Marie Scipion died at Mr. Pierre Chouteau's, in St. Louis; deponent was not then in St. Louis; does not know when Marie Scipion was born; Marie Scipion never told witness when she was born; witness is about forty years of age, perhaps more; witness was born in Cahokia, in Illinois; was about six or seven years old when witness removed to St. Louis from Cahokia.

Question. How long ago did Marie Scipion tell you who were her mother and father, and that her mother was taken by the French?

Answer. Witness does not exactly recollect how long ago Marie Scipion told witness; believes that Marie Scipion told her so about three or four years after witness first knew Marie; believes it to have been about twenty-eight or twenty-nine years ago.

her

MARGARET ALEXIS ⋈ AMELIN.

mark

JNO. TAYON.

John Tayon, a witness on the part of the defendant, testifieth, that he is the son of Joseph Tayon, deceased; is now seventy-three years of age; that he knew Marie Scipion, the slave of his father, from his earliest recollection, to the time of her death; she was black; her hair like that of other negroes; did not know, nor does he remember to have heard, who were the parents of said Maria Scipion.

No other evidence being given, the defendant, by his counsel, moved the court, to inssruct the jury as follows:

INSTRUCTIONS BY DEFENDANT.

1st. If the jury find, from the evidence, that the mother of Marie Scipion, was an Indian woman, of the Natchez nation, taken captive in war by the French, and that she and her descendants were publicly and notoriously held as slaves, in the province of Louisiana, while the same was held by the French, prior to the year 1769, and that she, and her descendants were so publicly and notoriously held as slaves, without interruption, in the said province, until the 30th April, 1830, and thence to the time of the commencement of this suit, the jury ought to find for the defendant.

2d. If the Jury find, from the evidence, that the mother of Marie

Scipion, was an Indian woman, taken captive in war, and reduced to slavery, by the French, and that from the time of her capture, she and her descendants were publicly and notoriously held as slaves, in the province of Louisiana, while the same was held by the French before the year 1769, and afterwards, while the same province was in the possession of, and held by Spain and France, until the 30th day of April, 1803, and thence until the commencement of this suit, they ought to find for the defendant.

3d. That Indians taken captive in war by the French, might lawfully be reduced and held in slavery, in the province of Louisiana, whilst it was held by the crown of France,

4th. If the jury find, from the evidence, that the mother of Marie Scipion, that the said Marie Scipion was born while her mother was so held in slavery, within the province of Louisiana, while the same was held by the French, prior to the year 1769, that the said Marie Scipion was held in slavery, in the province of Louisiana, from the time of her birth until the 30th April, 1803, and thence until the time of her death, then the Jury ought to find for the defendant.

5th. If the Jury find, from the evidence, that Marie Scipion was born while her mother was held in slavery, and that she, the said Marie Scipion, was publicly and notoriously held as a slave, from the time of her birth, until he death, within the territory ceded to the United States, by the treaty between the United States of America and the French Republic, bearing date the 30th April, 1803, and that, at the date of the said treaty, the Marie Scipion was so held as a slave, within the said ceded territory, by an inhabitant thereof, then the jury ought to find for the defendant.

Which instructions the court refused to give, and to the opinion of the court, in refusing said instructions, the defendant excepts and prays the court to sign and seal this, his bill of exceptions, which is done accordingly, this 10th Nov. 1836.

WILLIAM SCOTT. [SEAL.]

APPEAL.

And thereupon, the said defendant filed his affidavit, and prayed an appeal to the Supreme Court, which was granted, and the said Pierre Chouteau, senior, the defendant, as principal, and Julius de Munn, and Henry G. Soulard, as securities, who were approved by the court; acknowledged themselves indebted to the said Baptiste, the plaintiff, in the sum of two hundred and fifty dollars, of their respective goods and chattels, lands and tenements to be levied, and to the said Baptiste to be rendered.

Nevertheless, this recognizance is to be void if the said Pierre Chouteau, sen. the appellant, shall prosecute his said appeal with due diligence to a decision in the Supreme Court, and if the judgment appealed from is affimed, or his said appeal dismissed, he shall pay whatever of debts, damages, and costs have been recovered against

him, by the judgment of the circuit court, together with the interest that shat shall grow due thereon, or shall otherwise perform the judgment of the circuit court, and shall also pay the costs and damages that may be adjudged against him in the Supreme Court, upon his said appeal; otherwise to remain in full force, and of this they acknowledge themselves content.

Be it remembered, that upon the trial of this cause, the defendant, by his attorney, asked the court to give certain instructions to the jury, which the court refused to do; to which opinion of the court, in refusing to give said instructions, the defendant excepts, and prays his bill of exceptions may be signed and sealed, and enrolled, and made a part of the record, which is done accordingly.

AFFIDAVIT.

The said affidavit is in the words and figures following, to wit:

Margaret vs. *Pierre Chouteau.*

Suit for freedom in Jefferson circuit court. Catiche, alias Catharine vs. same; Helen vs. same; Baptiste vs. same; Julie vs. same. Pierre Chouteau, the defendant in the above entitled causes, pray an appeal in each of the said causes, and makes oath that his said appeal is not made of mere vexation and delay, but because he, the said affiant, believes that he is aggrieved by the judgment and decision of the court in the said causes, and each of them. Sworn to in open court.

P. CHOUTEAU.

State of Missouri, County of Jefferson, ss.

I, Henry P. Bates, clerk of the circuit court, within and for the county of Jefferson aforesaid, do certify that the foregoing is a full, true, and perfect transcript of the record and proceedings in the case of Baptiste against Pierre Chouteau sen. as now remains in my office.

[L. S.] In testimony whereof, I have hereunto set my hand and the seal of the said circuit court, this 26th day of April, 1837.

HENRY P. BATES, *Clerk.*

And afterwards, to wit, on the thirteenth day of June, in the year 1837, there was filed, in the office of the clerk of the said supreme court, the following assignment of errors, viz:

ASSIGNMENT OF ERRORS.

Pierre Chouteau vs. *Baptiste.*

In the Supreme Court, third district, June term, 1837. And now, at this day, come the appellant and says, that in the records and proceedings aforesaid, and also in giving the judgment aforesaid, there

is manifest error in this, that the said judgment was given for the appellee, when, by the law of the land, said judgment ought to have been given in favor of the appellant, and in this, that the court refused instructions to the jury on the trial of the issues, which, according to the law of the land, ought to have been given as prayed for; wherefore for the errors aforesaid, and others manifestly appearing in the record and proceedings as aforesaid, the appellant prays that the judgment aforesaid, in form aforesaid rendered, be reversed, annulled, and for nought held and esteemed, and that a new trial be awarded.

GEYER,
For Appellant.

There is no error.

H. R. GAMBLE,
Att'y for Appellee.

And afterwards, to wit, on the twentieth day of the month, and year aforesaid, the following proceedings were had in said cause, to wit:

Appeal from Jefferson Circuit Court.

Now, at this day, the parties aforesaid, by their respective attorneys, and thereupon, all and singular, the premises are by them submitted to the court, who having heard the arguments of the counsel on each side, and not being sufficiently advised what judgment to render, take time to consider thereof.

And afterwards, to wit, on the 26th June, in the year aforesaid, the following further proceedings were had in said cause, to wit:

JUDGMENT OF THE SUPREME COURT.

Pierre Chouteau, sen. vs. *Baptiste*

Appeal from the Jefferson Circuit Court. Now, at this day, come again the *the* parties aforesaid, by their respective attorneys, and the court here being now sufficiently advised of, and concerning the premises, do consider and adjudge that the judgment aforesaid, in form aforesaid by the said circuit court rendered, be, in all things, affirmed, and stand in full force. And it is further considered that the said Baptiste, the appellee, recover of the said Chouteau, the appellant, his costs and charges by him about his defence, in this behalf expended, and that he have thereof execution.

State of Missouri, Third Judicial District, ss.

I, John Ruland, clerk of the supreme court, in the third judicial district, certify the foregoing to be a true and complete transcript of the record and proceedings of said supreme court, in the case of Pierre Chouteau, senior, against Baptiste, as the same now remain of record and on file in my office.

In testimony whereof, I have hereunto set my hand, and affixed the seal of said court, at my office in the city of St. Louis, this second day of December, in the year of our Lord eighteen hundred and thirty-seven.

[SEAL.]

JNO. RULAND, *Clerk.*

United States of America, ss.

The President of the United States to the judges of the Supreme Court of the State of Missouri, being the highest court of law or equity of said State of Missouri, *greeting*:

Because, in the record and proceedings, and also in the rendition of the judgment of a plea, which is in the said Supreme Court of the State of Missouri, before you, or some of you, being the highest court of law or equity of the said State, in which a decision could be had in the said suit between Baptiste, appellant, and Pierre Choutea, appellee, wherein is drawn in question the construction of treaties, and the decision is against the right claimed under such treaties, a manifest error hath happened to the great damage of the said appellee, as by his complaint appears.

[SEAL.]

We being willing that error, if any hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid, in this behalf, do command you, if judgment be therein given, that then, under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, so that you have the same together with this writ, before the chief justice and associate justices of the Supreme Court of the United States, on the second Monday of January next, at the city of Washington, the present seat of the National Government, that the record and proceedings aforesaid being inspected, the said Supreme Court may cause further to be done therein to correct that error, what of right, and according to the laws and customs of the United States should be done.

Witness the honorable Roger B. Taney, chief justice of said Supreme Court, the twenty-second day of November, in the year one thousand eight hundred and thirty-seven.

Issued at office, in the city of St. Louis, under the seal of the circuit court of the United States, for the eighth circuit and district of Missouri, the day and year last aforesaid.

JOSEPH GAMBLE, *Clerk U. S. C. C.*

State of Missouri, Third Judicial District, ss.

I, John Ruland, clerk of the supreme court, within and for the third judicial district of the State of Missouri, (being the highest court of law or equity in said State) in obedience to the within writ, have made out, and herewith transmit a full transcript of the record and proceedings, as within commanded.

Given under my hand, and the seal of said court, at office, in the [SEAL.] city of St. Louis, this fourth day of December, eighteen hundred and thirty-seven.

JNO. RULAND, *Clerk.*

District of Missouri, sct.

The President of the United States of America to Baptiste, (a person of color,) *greeting:*

You are hereby cited and admonished to appear at a Supreme Court of the United States, to be holden at the city of Washington, on the second Monday of January next, pursuant to a writ of error, issued out of the office of the clerk of the circuit court of the United States, for the district of Missouri, and directed to the judges of the supreme court of the State of Missouri, wherein Pierre Chouteau, is plaintiff in error, and you, the said Baptiste, are defendant in error, to show cause, if any there be, why the judgment rendered against the said Pierre Chonteau, as in the said writ of error mentioned, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

Witness Matthias McGirk, presiding judge of the supreme court of the State of Missouri aforesaid, this 11th day of December, in the year of our Lord, one thousand eight hundred and thirty-seven.

MATTHIAS McGIRK.

I do hereby certify that I served the within the citation on the within named Baptiste, by reading the same to him on the sixteenth day of December, 1837, in the city and county of St. Louis, in the State of Missouri.

JAMES BROTHERTON,
Sheriff.
By M. BROTHERTON,
Deputy Sheriff.

Missouri District, sct.

This day personally appears Marshal Brotherton, deputy sheriff under James Brotherton, sheriff of St. Louis county, before me, Wilson Primm, commissioner for taking affidavits within said district, and made oath that the facts stated in the foregoing return are true.

M. BROTHERTON.

Sworn to and subscribed before me, this sixteenth day of December, in the year of our Lord one thousand eight hundred and thirty-seven.

WILSON PRIMM.

Know all men by these presents, that we Pierre Chouteau and John Baptiste Sarpy, are held and firmly bound unto Baptiste, (a

person of color) in the just and full sum of two thousand dollars, lawful money of the United States, to be paid to the said Baptiste, his heirs, executors, administrators, or assigns; to which payment well and truly to be made, we bind ourselves, our heirs, executors, and administrators jointly by these presents; sealed with our seals, this ninth day of December, 1837.

Whereas, lately at a Supreme Court, for the third judicial district, of the State of Missouri, in a suit depending in said court, wherein said Pierre Chouteau was plaintiff, and the said Baptiste, defendant. judgment was rendered against the said Chouteau, and he, the said Chouteau, has sued out a writ of error, to remove the said cause to the Supreme Court of the United States, to reverse the said judgment.

Now, the condition of the above obligation is such, that if the said Chouteau shall prosecute his said writ of error to effect, and answer all damages and costs, if he fail to make his plea good, then the above obligation to be void, otherwise to remain in full force and virtue.

PRE. CHOUTEAU. [SEAL.]
JOHN BT. SARPY. [SEAL.]

Test:
M. P. REDUC, JR.

State of Missouri, Montgomery county, ss. 11*th Dec.* 1837.
I approve the above bond and security.

MATHIAS McGIRK,
Presiding Judge of the Supreme Court of the State of Missouri.